

**ORDINANCE NO. 07-039**

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 94 ENTITLED "WATER AND SEWERS", ARTICLE 1. GENERAL PROVISIONS AND ARTICLE IV. PROCEDURES FOR WATER AND SEWER SERVICES, BY REVISING HIALEAH CODE §§ 94-6, 94-7, 94-91, 94-131 AND 94-193 TO ELIMINATE PROVISIONS REGARDING LIEN RIGHTS AGAINST DELINQUENT TENANT ACCOUNTS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the general purpose and intent of this ordinance is to provide proper zoning regulations in the best interest of the health, safety, welfare and aesthetics of the community and the proper administration of its government; and

**WHEREAS**, the City of Hialeah has paid off and retired the 1968 water and sewer revenue bonds; and

**WHEREAS**, the specific purpose of this ordinance is to eliminate existing language in the ordinance that would allow for the imposition of a lien against a delinquent tenant account in order to comply with state law, section 180.135, Florida Statutes.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** Chapter 94 entitled "Water and Sewers" of the Code of Ordinances of the City of Hialeah, Florida is hereby amended to read as follows:

**Chapter 94**

**WATER AND SEWERS**

**ARTICLE I. GENERAL PROVISIONS**

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**Sec. 94-6. Responsibility of premises owner.**

Every owner is fully responsible and liable by and to the department for all that is done or omitted on, in or about any premises in connection with the city water and/or sewer utility service by the owner, ~~customer~~, its agent or authorized representative ~~or tenant~~ or other persons not ~~in~~ employed by the department who may gain access to the premises.

**~~Sec. 94-7. Tenant as agent of owner.~~**

~~The tenant in or upon any premises of any owner shall at all times and for all purpose connected with or arising from the water supply and/or sewer services to and for such premises be taken and construed to be the properly constituted agent of the owner.~~

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**ARTICLE IV. PROCEDURES FOR WATER  
AND SEWER SERVICES**

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**DIVISION 1. APPLICATION PROCESS****Sec. 94-91. Application for services responsibility for payment of bills.**

(a) All customers requesting city utility services, connection to utility lines of the city or commitment for such services shall make application to the department therefore setting forth information required by the city. The department shall determine the order, sequence and requirements for making applications.

(b) The customer shall be responsible for any debts created by the customer or the customer's agent or authorized representative. The customer shall be

responsible for payments of utility bills until the city has received the customer's written cancellation notice.

~~(c) The city may refuse service or discontinue water and sewer services to the owner of any rental unit or to a tenant or prospective tenant of such rental unit for nonpayment of service charges incurred by a former occupant of the rental unit; and/or the city may place of [a] lien against the property or take legal action against the present tenant or owner to recover such charges, for only such time that the city continues to pay off the 1968 water and sewer revenue bonds.~~

### DIVISION 3. DEPOSITS, FEES, BILLS, PAYMENTS

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#### **Sec. 94-131. Delinquent accounts; payments of collection costs and attorney fees; creation of liens.**

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(c) When an owner or customer vacates or sells property leaving a delinquent bill against in the name of the owner or customer, such property vacated or sold, the department may, at its option, refuse to provide any other service open a new water and/or sewer account at another location within the city service area to the same owner or customer for use in the future until the date of the original delinquent account is paid, regardless of whether the other accounts of the owner or customer are in good standing.

(d) When water and/or sewer utility services are furnished to the owner ~~or customer~~ of any premises, the charges for such services shall be and constitute a lien against the premises, and shall become effective and binding as such lien from the date upon which the account becomes due, unpaid and in arrears.

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### DIVISION 6. MISCELLANEOUS REGULATIONS

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**Sec. 94-193. Notification to owners of rental properties of delinquent accounts by tenants.**

A tenant may open an account for water and sewer services ~~as an agent of the owner~~ only with the express written consent of the property owner . \*  
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**Section 2: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 3: Penalties.**

Every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

**Section 4: Inclusion in Code.**

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.

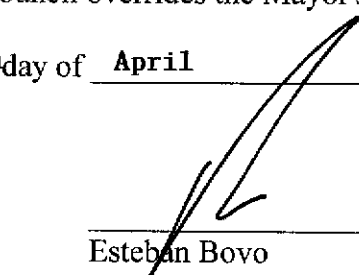
**Section 5: Severability Clause.**

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

**Section 6: Effective Date.**

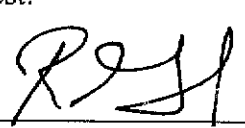
This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED AND ADOPTED this 10th day of April, 2007.

  
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Esteban Bovo  
Council President

Attest:

Approved on this 11 day of April, 2007.

  
\_\_\_\_\_  
Rafael E. Granado, City Clerk

  
\_\_\_\_\_  
Mayor Julio Robaina

Approved as to form and legal sufficiency:

  
\_\_\_\_\_  
William M. Grodnick, City Attorney

Ordinance was adopted by a unanimous vote with Councilmembers Bovo, Caragol, Casals-Muñoz, Gonzalez, Hernandez, Miel and Yedra voting "Yes".

~~Strikethrough~~ indicates deletion. Underline indicates addition.